

# Local Government Employee-Management Relations Board E-Newsletter

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Board Secretary

## Hearing Held on SB 241 Interpretation

The Board held a hearing on Monday, September 14<sup>th</sup> in case 2015-011, SEIU, Local 1107 v. Clark County. We lead this month's e-newsletter with this story due to the widespread interest in this case, which will require the Board to interpret two sections of a recently enacted bill – SB 241. The CBA between the parties originally expired in June 2013.

On June 1<sup>st</sup> Governor Sandoval signed into law SB 241, which had been sponsored by Senator Roberson. The new law made a number of changes to NRS 288, the EMRB's enabling statute. Two of these changes are at issue in this case. The first concerns the issue of paid union leave. The new law requires employee organizations to either pay the full cost of any union leave (i.e., leave taken by union officials to conduct union business) or else negotiate concessions to pay the full cost of that leave. On June 4<sup>th</sup> the County sent a letter to SEIU, Local 1107, ordering SEIU President Martin Bassick back to his County job.

A few days later the County sent another letter to SEIU, Local 1107, advising the union that it had stopped all raises. This letter cited the provision in SB 241 concerning evergreen clauses, which is the second of the two parts of SB 241 that the Board will need to interpret when it reaches a decision. SEIU, Local 1107 thereupon filed a prohibited practices complaint, alleging that the County had both implemented unilateral changes and had engaged in bad faith bargaining.

The County called three witnesses at the hearing: Martin Bassick, Rusty McAllister of the Professional Firefighters of Nevada and Yolanda King, Chief Financial Officer for Clark County. The County called no witnesses, though Ms. King had been on its witness list. Approximately 60 exhibits were admitted into the record.

The Board also had solicited *amicus* briefs and eight such briefs were received – 7 from employee organizations and 1 from two local governments. The Board also received joinders from both a local government and the Las Vegas Metro Chamber of Commerce to the brief filed by the local governments. The parties requested they be allowed to file post-hearing briefs, which the Board granted. These briefs are due October 29<sup>th</sup>. The Board will then deliberate on this case at its meeting on November 17<sup>th</sup> through 19<sup>th</sup> and will hopefully issue its decision at that time.

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## On the Horizon

The next meeting of the Board will be held on Monday, October 12<sup>th</sup> through Wednesday, October 14<sup>th</sup> in Las Vegas. The agenda for this meeting will be issued on Monday, October 5<sup>th</sup>. At this meeting the Board will hear two cases. The first case is A1-046113, Police Officers Association of the Clark County School District v. Clark County School District. The union alleges that CCSD has not provided information needed for bargaining in violation of NRS 288.180. This hearing is a continuation of a hearing begun a few months ago. It is expected that this case will take the first two days of the meeting.

The second case will be A1-046128, City of Las Vegas v. Las Vegas Peace Officers Association. This is the first part of a two-part bifurcated hearing. This first hearing will first resolve the scope of a proposed bargaining unit of lieutenants. Once this is resolved there is likely to then be an election to determine if there is majority support for the creation of this new bargaining unit. If there is then majority support for this new bargaining unit, then the second part of the hearing would be held in a future month, which would then decide the City's allegation that the lieutenants are either confidential employees or supervisory employees and thus should be exempted from being in the bargaining unit.

The Board will again meet in Las Vegas on November 17<sup>th</sup> through 19<sup>th</sup>. The agenda for this meeting will be issued on Monday, November 9<sup>th</sup>. One case is currently scheduled for this meeting, A1-046133, SEIU, Local 1107 v. Southern Nevada Regional Housing Authority. The parties have been without a new contract for more than 2 ½ years and have had numerous negotiations and mediation sessions. In this case SEIU, Local 1107 alleges that the Housing Authority engaged in bad faith bargaining in part by unilaterally instituting furloughs. The Housing Authority counterclaimed that the union also engaged in bad faith bargaining in part by misrepresenting management's offer. The Housing Authority also alleges that it is not a local government and thus not subject to the jurisdiction of the EMRB.

## Recent Decisions

Please note that summaries of recent decisions are provided for informational purposes only and are not intended to substitute for the opinions of the Board. These summaries should not be cited to or regarded as legal authority. The EMRB will provide copies of the decisions upon request. They also may be found on our website.

Item 802-A; A1-045847 through A1-045864 inclusive, Boland et al. v. SEIU, Local 1107

The Board had previously decided that SEIU, Local 1107 had the right to withdraw as the representative for a bargaining unit comprised of UMC physicians but that they had a duty to continue processing outstanding grievances when it withdrew as the representative, and that it had committed a prohibited practice by not doing so. After issuance of that order SEIU, Local 1107 requested a second hearing to determine which grievances were still outstanding and thus had a duty to process. Upon conclusion of the second hearing the Board delineated ten grievances that were outstanding on the date that SEIU, Local 1107 withdrew as the representative.

Item 807; A1-046068; Elko County Employees Association v. Elko County

Marcey Logsdon and Richelle Rader were both paramedics for the Elko County Ambulance Service, which is an enterprise fund operation. Both employees had hourly wage rates significantly higher than those of their co-workers, who were in lower graded classifications. From 2009 to 2012 the service operated at a significant deficit. Since 2010 the County limited Logsdon and Rader opportunities to work both extra overtime shifts and to work scheduled overtime. The association thereupon filed the instant complaint, alleging that the County discriminated against the two paramedics based upon personal reasons and/or on the basis of sex. The County countered that overtime was given to employees who made a lesser hourly rate in order to minimize the amount of overtime paid in order to reduce the amount of the deficit. The Board found that personal reasons does not include the wage rate that is paid to an employee and thus the County did not discriminate on the basis of personal reasons. With respect to sex, the Board found that the women had made a prima facie case but that the County had articulated a legitimate non-discriminatory reason for its actions based upon financial concerns. It should be noted that Chairman Larson dissented in the decision and wrote a lengthy statement of dissent, who believed that the two women had been discriminated against by the County.

## In the Queue...

Once initial pleadings, including pre-hearing statements, have been filed with the EMRB and after any motions to dismiss or defer have been decided, then a case typically goes into a queue, waiting for the Board to decide whether to grant a hearing in the case or dismiss the complaint. Below is a description of the current queue:

The Board has scheduled two cases for October: A1-046113, Police Officers Association of the Clark County School District v. Clark County School District (a continuation of a prior hearing) and A1-046128, City of Las Vegas v. Las Vegas Peace Officers Association.

The Board has scheduled A1-046133, SEIU, Local 1107 v. Southern Nevada Regional Housing Authority for November and A1-046120, IAFF, Local 1908 v. Clark County for December.

Also, the Board has scheduled 2015-003, John Ducas v. Las Vegas Metropolitan Police Department for January 2016 and 2015-001, Bramby Tollen v. Clark County Association of School Administrators and Professional-Technical Employees for February 2016.

There are currently two cases awaiting hearing dates:

2015-008, Education Support Employees Association v. Clark County School District

2015-013, Eric Brown v. Las Vegas Metropolitan Police Department

## Regulations Update

Our e-filing regulations, which are currently temporary, are waiting for final approval from the Legislative Commission, which, if approved, would enable them to become permanent. We have been told that the Legislative Commission is to meet sometime in October but no date has yet been set. The temporary regulations expire on October 31<sup>st</sup> according to law. On a side note, the Legislative Counsel Bureau has updated our complete set of regulations (except for the pending e-filing regulation) and that this complete set is now on our website.

## Did you know

that we have added a section to our website about public records requests, including a form and a policy? We at the EMRB believe that our records are your records. To this end, we have placed a number of our documents on our website and the list continues to grow. Many of our requests are via e-mail. We try to respond to those requests in a matter of minutes. Typical requests include pleadings for a given case or orders on a given subject. We, of course, are always glad to receive a telephone call if you are unsure of what you may be looking for and we are always glad to help you better define your request. Finally, we want you to know that we never charge for documents sent to you via e-mail.

### "About the EMRB"

The Employee-Management Relations Board (EMRB), a Division of the Department of Business and Industry, fosters the collective bargaining process between local governments and their employee organizations (i.e., unions), provides support in the process, and resolves disputes between local governments, employee organizations, and individual employees as they arise.